

**MINUTES OF THE
PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE**

Wednesday, May 17, 2000 - 2:00 p.m. - Room 223 - State Capitol

Members Present:

Sen. Lorin V. Jones, Co-Chair
Rep. Sheryl L. Allen, Co-Chair
Sen. Leonard M. Blackham
Sen. Mike Dmitrich
Sen. Joseph L. Hull
Sen. Howard C. Nielson
Rep. Ralph Becker
Rep. Chad E. Bennion
Rep. Blake D. Chard
Rep. David N. Cox
Rep. Gary F. Cox
Rep. Kevin S. Garn
Rep. Brent H. Goodfellow
Rep. Tom Hatch
Rep. David M. Jones
Rep. Gordon E. Snow
Rep. Martin R. Stephens
Rep. John E. Swallow
Rep. David Ure

Members Absent:

Rep. Melvin R. Brown

Staff Present:

Mr. Richard North,
Research Analyst
Ms. Tani Pack Downing,
Associate General Counsel
Ms. Junie G. Anderson,
Legislative Secretary

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Call to Order - Chair Jones called the meeting to order at 2:13 p.m.

MOTION: Rep. Allen moved to approve the minutes of the April 19, 2000 meeting. The motion passed unanimously. Sen. Blackham, Sen. Dmitrich, Rep. Garn, Rep. Hatch, and Rep. Stephens were absent for the vote.

2. HB 320 Interim Review - Mr. North briefed the committee on the proposed study plan for HB 320 "Public Utility Amendments." He said each month the meeting could be dedicated to a different aspect of HB 320. He announced that additional meetings of the committee have been requested. Additional meetings will be held on June 15 (approved) and August 17 (to be approved) at 9:00 a.m. in Room 223. Possible additional meetings will also be held in September and November.

Mr. North said in response to the committee's request for input, 66 pages of suggestions were received. That information has been provided to all committee members and other interested parties, and has served as the basis for the committee's proposed study plan.

Ms. Downing distributed a handout titled "Proposed Changes Regarding Settlement Conferences" and discussed the changes. She also distributed copies of the Utah Code - Chapter 46b - Administrative Procedures Act, Section 63-46b-3 - Commencement of adjudicative proceedings, and discussed the language within the section. She also discussed Section 54-7-1. Settlement – Limitation of issues.

Ms. Downing distributed copies of the Utah Code, Part 5 - Petitions for Redetermination of Deficiencies, Section 59-1-502.5 - Initial hearings are an example of the Legislature, by statute, giving a commission, in this case the Tax Commission, authority to not only be involved in settlement but to ultimately be the trier-of-fact. She also discussed a handout titled "Possible Questions for Legislators to Ask Regarding Proposed Settlement Conference Changes."

Mr. Gary Thorup, Holme Roberts & Owen, distributed a handout titled "Utah Administrative Procedures Act (UAPA)." He gave background information on the Act and discussed its provisions, existing law, and how it is presently used in Public Service Commission (PSC) proceedings. He encouraged the use of litigation tools that already exist in UAPA but are not used by the PSC. He also said Questar supports the new processes in the "Proposed Changes Regarding Settlement Conferences" handout.

Mr. Chuck Greenhawt, Questar, briefed the committee on the current settlement process, including the problems that led to HB 320. He distributed a handout titled "How PSC Rate and other Complicated Cases are Currently Handled." The handout included a portion on how HB 320 is intended to modify how PSC cases are currently handled.

Mr. Edward Tim Hunter, PacifiCorp, and Mr. Robin Riggs, US West, indicated that the entities they represent stand in support of the "Proposed Changes Regarding Settlement Conferences" section under which their companies' names are listed.

Mr. Jerry Oldroyd, representing regulated telecommunication competitors, complimented the chairs and staff for their superior efforts spent on HB 320 but indicated that in the telecommunications area, the PSC and Division of Public Utilities (DPU) have been using settlement conferences effectively under a different procedure than proposed by Questar and he would prefer that telecommunications issues be exempted out of any settlement conferences requirements imposed by this bill. He suggested writing a new section for telecommunications competitors to make the process fair or leave Section 54-7-1 as it is in existing code. He recommended an additional section dealing with competitive industries and public utilities as indicated in Ms. Downing's handout - Proposed Changes Regarding Settlement Conferences - Telecommunications Competitors - 2.1.

Mr. L. J. Godfrey, distributed a handout titled "Process for Deregulation of Local Services Market - Under 1995 Telecommunications Reform Act" and discussed the procedure for companies to move from a monopoly to a competitive market.

Mr. Steve Mecham, PSC, said the proposed changes can be done under existing law and added if there is a problem, it is in the structure. He suggested combining the DPU with the PSC so the commission can be involved in pre-adjudicative proceedings and be more involved in information gathering, but keep the consumer advocate independent.

Mr. Ric Campbell, DPU, distributed a handout titled "PSC Cases with a 1999 Decision." He discussed the types of complaints handled by the DPU. He reminded the committee that the utility has all of the information and there needs to remain, as in current law, the ability for the DPU to audit records in order to make just and reasonable recommendations to the PSC. He also said DPU has strong objections to Section 54-7-11.5 in HB 320.

Mr. Roger Ball, Committee of Consumer Services (CCS), commented on the need for an independent consumer advocate and expressed concern that the consumer advocate needed to be involved in settlement conferences. He also indicated that he felt it inappropriate for the commission to be involved in settling an issue it might be forced to later adjudicate.

Ms. Betty Ariel, CCS, representing rural small customers, said the committee receives very complete briefings regarding settlement issues and adjudicate hearings.

Mr. Phil Uipi, CCS, said the CCS is very active, involved, and influential toward settlement issues and adjudicate hearings. He said the committee must remain independent to be effective, and under the new structure it would be under the director of the Office of the Public Advocate.

Mr. Scott Gutting and Mr. Gary Dodge, represented large industrial users. Mr. Gutting said the committee must realize there is a regulated monopoly environment in our state. He offered to bring at the next meeting an alternative process which may be more efficient.

Mr. Dodge said, under current law, UAPA does not order any type of settlement conference nor does it necessarily involve the commission in the process. Under current law, the commission may not grant a rate increase without a hearing. He disagreed that HB 320 does nothing but codify the UAPA, and discussed some changes to the current process that may be useful.

Ms. Clair Geddes distributed two Utah Supreme Court cases as examples. The cases were titled "MCI Telecommunications Corp. v. Public Service Commission of Utah, dated May 12, 1992" and "Utah Dep't of Bus. Regulation v. Public Serv. Comm (Utah 1980)." She expressed concern that the proposal goes further than UAPA.

Ms. Betsy Wolf, Salt Lake Community Action Program, distributed a handout titled "How PSC Rate and other Complicated Cases are Currently Handled." The handout also included a section on how HB 320 is intended to modify the way PSC cases are currently handled. She said the process, as it pertains to UAPA, appears to be working. She also said the new amendments do nothing to improve the current settlement conference process and recommended leaving Section 54-7-1 as it is in the current code.

Ms. Wolf expressed concern about the role of the commissioners in the initial conferences under HB 320.

Mr. Kenneth Olafson, West Valley City, spoke about accountability and fairness. He said it is important to go to an "elected" PSC.

Rep. Allen reminded the committee and the audience that the June meeting will be strictly to study the structure issue.

MOTION: Rep. Allen moved to adopt the language as written in the proposed changes, numbers 1 through 1.5, as concepts for staff to work as a basis point for improvement in the settlement procedure.

Rep. Stephens asked if the motion would prevent the committee from going back to amend the language at a later time. Rep. Allen said it would not prevent that option.

SUBSTITUTE MOTION: Rep. Stephens moved that staff continue to work with all parties involved to see if they can bring language that is agreeable to all parties for the next meeting and, in addition, have staff prepare a presentation regarding the benefit of using the new amended language that they have come up with vs. keeping the code the same way it is in this section. The motion passed unanimously. Sen. Blackham, Sen. Hull, Rep. Jones, Rep. Swallow, and Rep. Ure were absent for the vote.

3. Adjournment -

MOTION: Mr. G. Cox moved to adjourn the meeting at 5:42 p.m. The motion passed unanimously. Sen. Blackham, Sen. Hull, Rep. Jones, Rep. Swallow, and Rep. Ure were absent for the vote.